

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Attorney Docket No. 018733-1055

In re patent application of
David M. Goldenberg, et al.

Group Art Unit: 1642

Serial No. 09/924,103

Examiner: Christopher H. Yaen

Filed: August 8, 2001

For: IMMUNOTHERAPY FOR CHRONIC MYELOIDIC LEUKEMIA

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

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Sir:

This is a response to the Restriction Requirement mailed March 8, 2002, in connection with the captioned application. Enclosed is a Petition for a one-month extension of time with the requisite fee, to extend the time to respond to May 8, 2002. Should such a request or any fee be deficient or absent, consider this paragraph such a request and authorization to charge the appropriate fee under 37 C.F.R. §§ 1.16 to 1.18 to Account No. 19-0741.

REMARKS

In response to the requirement for election, applicants hereby elect Group I, claims 1, 2, 3, 4, 5 and 7, with traverse. In regard to the restriction between Groups I and VI, applicants respectfully disagree with the examiner's rationale for requiring restriction between a therapeutic composition comprising at least one naked anti-granulocyte antibody (Group I) and a therapeutic composition for treating CML comprising two naked anti-granulocyte antibodies (Group II). It is believed that the subject matter of the claims of Groups I and VI are sufficiently related to be examined together. In fact, the groups overlap in that a search for at least one anti-granulocyte antibody necessarily includes the same search necessary for two naked anti-granulocytes. As such, examination of both

groups would not place an undue burden on the examiner. MPEP 803 recites that if "the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." In line with this statement Groups I and VI should be rejoined.

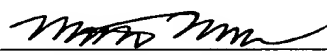
In regard to the election between Group I and Groups II, III, IV, and V, we respectfully disagree with the examiner and affirm that the subject matter of the claims of Groups I, II, III, IV and V are sufficiently related to be examined together. While the groups may contain patentably distinct claims, the naked antibody of Group I is related to Groups II, III, IV, and V in that the antibody is utilized in conjunction with therapies and treatments. Examination of the naked antibody of Group I in combination with therapies and treatments of Groups II, III, IV, and V would not place an undue burden on the examiner.

In line with the aforementioned, the applicants respectfully request that Groups II, III, IV, V, and VI be rejoined with Group I. Applicants, of course, reserve the right to file divisional applications covering the subject matter of the non-elected claims and to rejoin commensurate method of use and process claims pursuant to the Ochiai/Brouwer Guidelines. Receipt of the initial Office Action on the merits is awaited.

Respectfully submitted,

May 8, 2002

Date


for Stephen B. Maebius
Reg. No. 35,264 44,250

FOLEY & LARDNER

3000 K Street, N.W., Suite 500

Washington, D.C. 20007-5109

Telephone: (202) 672-5300

Facsimile: (202) 672-5399

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.